
BZA-1899
WILLIAMSBURG ON THE WABASH, LLC
Variances

STAFF REPORT
February 20, 2014

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is the owner, and represented by Max Mouser of Studio A of Indianapolis, is requesting the following two variances to construct a rental office at its existing apartment complex:

1. To permit a front setback of 60' instead of the required 100' from the North River Road special setback (UZO 4-4-3a); and
2. To permit a ~~45'~~ 10' setback from the Flood Plain zone instead of the required 25' (UZO 4-4-3b)

on property located at 400 – 520 N. River Road, West Lafayette, Wabash 17 (SW) 23-4.
THIS CASE WAS CONTINUED FROM THE JANUARY 22, 2014 MEETING AT PETITIONER'S REQUEST.

AREA ZONING PATTERNS:

The majority of the property is zoned Flood Plain; the areas above the Wabash River floodplain are zoned R3W. R1, R1U and PDRS zoning is in place on the west side of North River Road.

The most recent comparable BZA request occurred in 1995 (BZA-1328). The approved variance was for a 42' apartment building setback along River Road instead of the required 60'—this variance was approved prior to the 100' special setback along River Road.

AREA LAND USE PATTERNS:

The Williamsburg on the Wabash apartments were constructed in 1963, prior to the adoption of the 1965 zoning ordinance. As such, the buildings in the FP zone (as well as the buildings built within the 100' North River Road special setback) are legally nonconforming. (It also does not meet the definition of "university-proximate residence" even though it is within the geographic area of that definition because the apartments were constructed before the definition was written.) In addition to a new rental office, petitioner plans to make interior changes to the existing units but would not be changing the overall number of units or bedrooms (approximately 473 units in 17 separate buildings).

Petitioners received primary approval at the February 2014 APC hearing for their two-lot subdivision (S-4439) that would create a single lot for the majority of the apartment buildings and this proposed office, as well as a separate lot containing one apartment

building (for financing purposes).

TRAFFIC AND TRANSPORTATION:

This segment of North River Road is classified as an urban primary arterial by the adopted Thoroughfare Plan. For subdividing purposes, a half-width right-of-way of 40' is required; but the existing half-width right-of-way is only 30'. Petitioners received a subdivision variance from the West Lafayette Board of Works to dedicate only the existing 30'.

The site plan shows four additional parking spaces, one handicapped-accessible, serving the proposed office.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Utilities are already in place and no changes are planned.

Petitioner has indicated the regulatory flood elevation of 532' on the site plan.

STAFF COMMENTS:

The existing structure that serves as a rental office was constructed as a single-family home. Petitioner, who is a new owner of the property, intends to demolish and replace it with a larger, ADA-compatible rental office.

North River Road is a state scenic byway. In this area, it has a special setback of 100' from the edge of the right-of-way, a setback created in the late 90s to protect the scenic element of River Road.

The existing structure has a 20' setback from the right-of-way of North River Road. In this part of North River Road, structures have much smaller setbacks than the required 100': the building directly to the south has a setback of 35'; the apartment buildings in the complex are setback about 35' as well. Setbacks generally do not increase until after River Road intersects with Happy Hollow. The proposed structure will be 60' from River Road, the standard setback for a primary arterial (which would be the setback if it were not a scenic byway).

In addition to the large front setback, there is a flood plain setback that must be observed at the rear of the property. The UZO mandates a 25' no-build setback from the boundary of the Flood Plain zoning line. This setback provides extra protection for the floodplain by limiting construction. In the mid-90s, INDOT purchased flood plain easements upstream on the Wabash River to mitigate for the construction of the Branigin Bridge (US 231/52). This raised the flood plain elevation on the site, though not substantially (a few tenths of an inch). While petitioner is proposing construction 10' from the floodplain boundary line instead of the required 25', staff cannot find a compelling reason to walled structures closer to the floodplain, reducing our community's long-standing commitment to protecting the floodplain and mitigating hazards.

There are challenges to redeveloping this site; a large setback in the front and the floodplain setback in the rear. Meeting all the required setbacks would provide petitioner with a building envelope about 35' deep. While staff recognizes the building space is small, a building could be constructed on the site to meet all ordinance requirements and as such, cannot be considered a hardship.

Regarding the ballot items:

1. The Area Plan Commission at its February 19, 2014 determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. Granting both variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. Regarding variance #1, the building still meets the standard 60' setback for a primary arterial. Though properties on the east side of River Road have a special setback, many structures in the immediate area do not meet the ordinance requirements. The proposed building will be farther from the road than nearby buildings. In regard to variance #2 the proposed building will be no closer to the floodplain zoning boundary than nearby buildings, which were constructed in the early 1960s. Additionally, positioning this building closer to the floodplain would not have a negative affect on neighboring property during a flooding event.
3. Use and value of the area adjacent to the property included in the requests **WILL NOT** be affected in a substantially adverse manner. Regarding variance #1, reconstruction of the rental office will place the structure 40' farther away from the right-of-way of River Road than it is currently, providing more open space. Petitioner has positioned parking in the front to give the appearance of a larger setback as well. Since all variances are site-plan specific, the structure can be built no closer to River Road than is shown on the site plan. Regarding variance #2, there is a significant slope at the rear of the property. Historical photos of flooding events indicate flood waters have generally stayed within the boundary of the regulatory flood. Additionally, this building will not contain living space for residents, but will serve only as an office.
4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. With the 100' scenic byway setback, proximity of the flood plain boundary and the additional regulatory flood increase after INDOT purchased easements for the construction of the Branigin Bridge, this property is unique in comparison to other R3W-zoned properties.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in a hardship as defined in the zoning ordinance. Even though adhering to the required setbacks would leave roughly 35' of buildable width on this property, the building could be redesigned to meet existing setbacks.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. While staff commends petitioner for improving ADA accessibility and providing open space along North River Road, a building could be constructed on the site to meet all required setbacks, perhaps not in the configuration petitioner envisions. Therefore, the hardship involved **IS** self-imposed.

5b. The variances sought **DO NOT** provide only the minimum relief to alleviate the hardship because there a building could be constructed meeting all ordinance requirements.

STAFF RECOMMENDATION:

Variance #1 (front setback): Denial

Variance #2 (flood plain setback): Denial